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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/037,397	12/21/2001	Le Tang	ABTT-0254/B000701	7398

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EXAMINER

LE, DEBBIE M

ART UNIT	PAPER NUMBER
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2177

DATE MAILED: 04/29/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/037,397

Applicant(s)

TANG ET AL.

Examiner

DEBBIE M LE

Art Unit

2177

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 December 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Priority

Applicant's claim for domestic priority under 35 U.S.C. 119(e) is acknowledged.

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 4/3/02 is in compliance with the provisions of 37 CFR 1.97 and has been considered by the examiner.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Speakman et al (USP 5,991,741) in view of Charnes et al (Comparison of DEA and Existing Ratio and Regression Systems for Effecting Efficiency Evaluations of Regulated Electric Cooperatives in Texas).

As per claim 1, Speakman discloses a method for assessing the performance of an utility (organization) comprising:

designating a target utility (an institution being analyzed, the name of school (organization), col. 7, lines 24-25, col. 14, lines 44-48) from amongst a plurality of utilities (district-to-district across the country, col. 12, lines 55-64) and retrieving performance data for the target utility from a database (assume that \$11,000 in employee benefits needs to distributed among three salary line items full-time, part-time and food service, col. 18, lines 45-52);

specifying a benchmark criteria (benchmark financial information, col. 6, line 16) defining a subset of the plurality of utilities (new line items is created allocating \$6,000 of the total benefits to the costs of three salary line items full-time, part-time and food service) and causing performance data for the subset to be retrieved the subset not including the target utility (\$11,000 is different \$6,000);

causing a comparison between the performance data for the target and the performance data for the subset (comparison of different school systems, col. 15, lines 10-15) to be generated (mapping line items and summaries are generated. These summaries are used to generate reports in a plurality of standardized formats, col. 7, lines 17-22, col. 14, line 63, col. 15, lines 8-9); and

assessing the performance of the target in relation to the subset using the generated comparison (performance assessment data, col. 5, line 64, col. 15, lines 16-55, col. 19, lines 1-28).

Speakman does not explicitly teach energy utility. However, Charnes teaches a method for effecting efficiency evaluations of regulated electric (abstract). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of the cited references to apply the teachings disclosed by Charnes into Speakman's system because both systems analyze the performance assessment data of the organization (target utility) to find out accurate information of the cost of maintenance and operation, that are suitable for its organization, whether the enterprise business is school or an energy utility (Speakman's system, col. 5, lines 61-64, col. 6, line 63, col. 10, lines 12-13). As the result, it would provide a basic for selecting comparison organizations to help in securing efficiency evaluations (Charnes's system, introduction).

As per claim 2, Speakman teaches wherein the benchmark criteria comprise at least a requirement that each member of the subset have data for at least one associated performance indicator (the rate need to be established a priori for each of the locations involved, col. 16, lines 1-4) within a specified range (with range limitations, col. 15, line 7) .

As per claim 3, Speakman teaches wherein the performance data for the target includes performance ratio data corresponding to the target and the performance data for the subset includes performance ratio data corresponding to members of the subset

(benchmarking of effective ratios of spending between Instruction and Instructional Support, among others, col. 11, lines 39-42).

As per claim 4, Speakman teaches wherein the performance ratio data corresponding to the target includes data representing maintenance cost (maintenance costs, col. 12, line 42) per distribution line mile (cost associated with operations educational institutions, from one school district to the next, col. 11, lines 46-54, col. 12, lines 55-56).

As per claim 5, Charnes teaches wherein the step of causing the comparison to be generated comprises causing a regression analysis to be performed on at least one affecting driver and at least one performance indicator for the subset, the determination of an expected value for the at least one performance indicator based on the regression analysis and a comparison between the performance data for the target and the expected value to be generated (page 194).

As per claims 6-7, Charnes teaches wherein the step of causing the comparison to be generated comprises causing a Data Envelopment to be performed on a plurality DEA inputs and a plurality of DEA outputs for the subset, the determination of expected values for each of the plurality of DEA outputs and a comparison between the performance data for the target and the expected values to be generated and further comprises varying at least one of the plurality of DEA inputs, causing a Data Envelopment Analysis to be performed using the at least one varied DEA input, causing the determination of expected values for each of a varied set of DEA outputs, and

comparing the expected values for the varied set of DEA outputs to the expected values for the plurality of DEA outputs (pages 199, 205, 208).

As per claim 8, Speakman teaches wherein the step of assessing the performance of the target comprises causing a composite score for the target to be generated from the performance data for the target (fig. 27, col. 23, lines 31-32).

As per claim 17, Speakman teaches the step of assessing the performance of the target comprises generating a cross checking analysis for a consistence of information obtained from alternate assessment methods (the uses of standardized reporting format in combination with a standardized methodology for the allocation of costs and benefits and IN\$ITE program permits the comparison of different school system even when they are not geographically proximate, col. 15, lines 10-15).

As per claim 18, Speakman teaches the step of assessing the performance of the target comprises generating a multi-attribute utility profiling to facilitate the review and analysis of an overall performance and potential improvement of the target utility (allocation results are then reviewed, repeat the process in whole or in part until the allocations match the usage of resource individual locations, col. 18, lines 35-41)

Claim 9 is rejected by the same rationale as state in independent claim 1 arguments.

Claims 10-12, 16 have similar limitations as claims 2-4 and 8; therefore, they are rejected under the same subject matter.

Claims 13-15 have similar limitations as claims 5-7; therefore, they are rejected by the same subject matter.

Conclusion

If a reference indicated as being mailed on PTO-FORM 892 has not been enclosed in this action, please contact Lisa Craney whose phone number is (703) 305-9601 for faster service.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DEBBIE M LE whose telephone number is 703-308-6409. The examiner can normally be reached on 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JOHN BREENE can be reached on 703-305-9790. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Debbie Le

4/27/04



GRETA ROBINSON
PRIMARY EXAMINER

DEBBIE M LE
Examiner
Art Unit 2177